

AMENDMENTS TO LB 1286

1 1. Strike the original sections and insert the following
2 new sections:

3 "Section 1. Notwithstanding the provisions of section
4 86-808:

5 (1) A wireless carrier providing telecommunications
6 service in Nebraska shall file a registration form with and pay a
7 registration fee to the Public Service Commission. A wireless
8 carrier which provided such telecommunications service prior to
9 January 1, 2003, and which continues to provide such
10 telecommunications service on and after January 1, 2003, shall
11 register with the commission prior to April 1, 2003. Any wireless
12 carrier which begins to provide telecommunications service in
13 Nebraska on or after January 1, 2003, shall register with the
14 commission prior to providing such telecommunications service.

15 (2) The commission shall prescribe the registration form.
16 It shall include:

17 (a) The name, address, telephone number, and email
18 address of a contact person concerning the Nebraska
19 Telecommunications Universal Service Fund Act and related
20 surcharges, if applicable;

21 (b) The name, address, telephone number, and email
22 address of a contact person concerning the Telecommunications Relay
23 System Act and related surcharges, if applicable;

24 (c) The name, address, telephone number, and email

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1 address of a contact person concerning sections 86-2201 to 86-2214
2 and related surcharges, if applicable; and

3 (d) The name, address, telephone number, and email
4 address of a contact person concerning consumer complaints and
5 inquiries.

6 (3) The wireless carrier shall submit a registration fee
7 with the registration form. The commission shall set the fee by
8 rule and regulation, but the fee shall not exceed fifty dollars.

9 (4) The wireless carrier shall keep the information
10 required by this section current and shall notify the commission of
11 any changes to such information within sixty days after the change.
12 The commission shall not assess a fee for any changes to
13 information made within the sixty-day period.

14 (5) The commission may administratively fine pursuant to
15 section 75-156 any wireless carrier which violates this section.

16 (6) For purposes of this section, wireless carrier means
17 any person offering mobile radio service, radio paging service, or
18 wireless telecommunications service for a fee in Nebraska
19 intrastate commerce.

20 Sec. 2. Section 75-134, Revised Statutes Supplement,
21 2000, is amended to read:

22 75-134. (1) A commission order entered after a hearing
23 shall be written and shall recite (a) a discussion of the facts of
24 a basic or underlying nature, (b) the ultimate facts, and (c) the
25 commission's reasoning or other authority relied upon by the
26 commission.

27 (2) Every order of the commission shall become effective

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1 ten days after the date of the mailing of a copy of the order to
2 the parties of record except (a) when the commission prescribes a
3 later effective date, (b) as otherwise provided in section 75-121
4 or 75-139, (c) as otherwise provided for cease and desist orders
5 issued pursuant to section 75-133, or (d) for orders entered
6 pursuant to section 75-319 which shall be effective on the date of
7 entry.

8 (3) Except as otherwise provided in this section or for
9 rate orders provided for in section 75-139, if one of the parties
10 of record commences an appeal pursuant to section 75-137, the order
11 appealed shall be in abeyance until the Court of Appeals or Supreme
12 Court issues its mandate. Nothing in this section shall hold in
13 abeyance an order authorizing the issuance of a certificate or
14 permit, an order denying relief or authority, or an order entered
15 pursuant to section 75-319.

16 (4) If a party of record to a telecommunications order
17 commences an appeal in accordance with the Administrative Procedure
18 Act, the order appealed shall become effective on the date
19 prescribed in subsection (2) of this section and remain in effect
20 unless upon application (a) the commission or district court issues
21 an order staying the underlying commission order or (b) the
22 commission, district court, Court of Appeals, or Supreme Court
23 issues an order reversing or modifying the underlying commission
24 order. For purposes of this subsection, telecommunications order
25 means an order entered by the commission pursuant to the Intrastate
26 Pay-Per-Call Regulation Act, the Nebraska Telecommunications
27 Universal Service Fund Act, the Telecommunications Relay System

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1 Act, subsection (2) of section 75-109, ~~or~~ sections 75-604 to
2 75-616, 86-801 to 86-811, 86-1001 to 86-1009, or 86-1201 to
3 86-1222, or section 1 of this act.

4 (5) The commission or district court may only issue a
5 stay pursuant to subsection (4) of this section if it finds that
6 (a) the applicant for the stay is likely to prevail when the matter
7 is finally decided, (b) without relief, the applicant will suffer
8 irreparable injury, and (c) the grant of relief to the applicant
9 will not substantially harm other parties to the proceedings. The
10 commission or district court may require the party requesting such
11 stay to give bond in such amount and conditioned as the commission
12 or court may direct. The grant or denial of a stay shall not be
13 considered to be a final order.

14 Sec. 3. Section 75-156, Revised Statutes Supplement,
15 2000, is amended to read:

16 75-156. (1) In addition to other penalties and relief
17 provided by law, the Public Service Commission may, upon a finding
18 that the violation is proven by clear and convincing evidence,
19 assess a civil penalty of up to ten thousand dollars per day
20 against any person, motor carrier, regulated motor carrier, common
21 carrier, or contract carrier for each violation of (a) any
22 provision of sections 75-301 to 75-390 administered by the
23 commission or section 75-126 as such section applies to any person
24 or carrier specified in sections 75-301 to 75-390, (b) a commission
25 order entered pursuant to the Intrastate Pay-Per-Call Regulation
26 Act, the Nebraska Telecommunications Universal Service Fund Act,
27 the Telecommunications Relay System Act, subsection (2) of section

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1 75-109, or sections 75-604 to 75-616, 86-801 to 86-811, 86-1001 to
2 86-1009, or 86-1201 to 86-1222, (c) any term, condition, or
3 limitation of any certificate or permit issued by the commission
4 pursuant to sections 75-301 to 75-390, or (d) any rule, regulation,
5 or order of the commission issued under authority delegated to the
6 commission pursuant to sections 75-301 to 75-390. The civil
7 penalty assessed under this section shall not exceed two million
8 dollars per year for each violation. The amount of the civil
9 penalty assessed in each case shall be based on the severity of the
10 violation charged. The commission may compromise or mitigate any
11 penalty prior to hearing if all parties agree. In determining the
12 amount of the penalty, the commission shall consider the
13 appropriateness of the penalty in light of the gravity of the
14 violation and the good faith of the violator in attempting to
15 achieve compliance after notification of the violation is given.

16 (2) Upon notice and hearing in accordance with this
17 section and section 75-157, the commission may enter an order
18 assessing a civil penalty of up to one hundred dollars against any
19 person, firm, partnership, limited liability company, corporation,
20 cooperative, or association for failure to file an annual report as
21 required by section 75-116 and as prescribed by commission rules
22 and regulations or for failure to register as required by section 1
23 of this act and as prescribed by commission rules and regulations.
24 Each day during which the violation continues after the commission
25 has issued an order finding that a violation has occurred
26 constitutes a separate offense. Any party aggrieved by an order of
27 the commission under this section, except an order assessing a

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1 civil penalty issued under subdivision (1)(b) of this section, has
2 the rights of appeal set forth in section 75-136.01. For an order
3 assessing a civil penalty issued under subdivision (1)(b) of this
4 section, any party aggrieved may appeal. The appeal shall be in
5 accordance with the Administrative Procedure Act.

6 (3) When any person or party is accused of any violation
7 listed in this section, the commission shall notify such person or
8 party in writing (a) setting forth the date, facts, and nature of
9 each act or omission upon which each charge of a violation is
10 based, (b) specifically identifying the particular statute,
11 certificate, permit, rule, regulation, or order purportedly
12 violated, (c) that a hearing will be held and the time, date, and
13 place of the hearing, (d) that in addition to the civil penalty,
14 the commission may enforce additional penalties and relief as
15 provided by law, and (e) that upon failure to pay any civil penalty
16 determined by the commission, the penalty may be collected by civil
17 action in the district court of Lancaster County.

18 Sec. 4. Section 86-1405, Revised Statutes Supplement,
19 2001, is amended to read:

20 86-1405. (1) The Nebraska Telecommunications Universal
21 Service Fund is hereby created. The fund shall provide the
22 assistance necessary to make universal access to telecommunications
23 services available to all persons in the state consistent with the
24 policies set forth in the Nebraska Telecommunications Universal
25 Service Fund Act. Only eligible telecommunications companies
26 designated by the commission shall be eligible to receive support
27 to serve high-cost areas from the fund. A telecommunications

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1 company that receives such support shall use that support only for
2 the provision, maintenance, and upgrading of facilities and
3 services for which the support is intended. Any such support
4 should be explicit and sufficient to achieve the purpose of the
5 act.

6 (2) Notwithstanding the provisions of section 86-808, ~~the~~
7 ~~commission (a) shall~~ in addition to other provisions of the act,
8 and to the extent not prohibited by federal law, the commission:

9 (a) Shall have authority and power to subject eligible
10 telecommunications companies to service quality, customer service,
11 and billing regulations. Such regulations shall apply only to the
12 extent of any telecommunications services or offerings made by an
13 eligible telecommunications company which are eligible for support
14 by the fund;

15 (b) Shall have authority and power to issue orders
16 carrying out its responsibilities and to review the compliance of
17 any eligible telecommunications company receiving support for
18 continued compliance with any such orders or regulations adopted
19 pursuant to the act;

20 (c) May ~~and may~~ withhold all or a portion of the funds to
21 be distributed from any telecommunications company failing to
22 continue compliance with ~~its~~ the commission's orders or
23 regulations;

24 (d) Shall ~~and~~ ~~(b) shall~~ consistent with the
25 Telecommunications Act of 1996, require every telecommunications
26 company to contribute to any universal service mechanism
27 established by the commission pursuant to state law. To determine

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1 compliance, the commission may require an audit of any
2 telecommunications company concerning the collection and remittance
3 of a surcharge for universal service; ~~7~~ and ~~(e)~~ may

4 (e) May administratively fine pursuant to section 75-156
5 any person who violates the Nebraska Telecommunications Universal
6 Service Fund Act.

7 (3) Any money in the fund available for investment shall
8 be invested by the state investment officer pursuant to the
9 Nebraska Capital Expansion Act and the Nebraska State Funds
10 Investment Act.

11 Sec. 5. This act becomes operative on September 1, 2002.

12 Sec. 6. Original sections 75-134 and 75-156, Revised
13 Statutes Supplement, 2000, and section 86-1405, Revised Statutes
14 Supplement, 2001, are repealed.".